

**REMARKS / ARGUMENTS**

Claims 1-48 are pending in the instant application. Claims 1, 15, 25, 30 and 35 are independent. Claims 2-14, 16-24, 26-29, 31-34 and 36-48 depend from independent claims 1, 15, 25, 30 and 35, respectively.

By this Amendment, claims 1-48 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claim 1-48 were rejected on grounds of non-statutory obviousness type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 7,483,985, claims 1-31 of U.S. Patent No. 7,424,534, and claims 1-33 of U.S. Patent Application No. 10/675,410. Claims 1-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 7,065,778 ("Lu"), in view of USPP2002/0154892 ("Hoshen") and further in view of USPP 2004/0125789 ("Parker"). Claims 10-13, 23-24, 28, 33, 45-47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 7,065,778 ("Lu") in view of USPP 2004/0125789 ("Parker") and further in view of USP 6,963,358 ("Cohen").

Though the Applicant generally disagrees with such rejections, to expedite allowance of various pending claims, the following discussion will focus in part on particular independent and dependent claims and/or portions thereof. Note that such

focus is in no way to be construed as the Applicant agreeing with any rejections not specifically discussed below. The Applicant respectfully traverses the above rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

### **I. Non-Statutory Obviousness Type Double Patenting**

Claims 1-48 were rejected on grounds of non-statutory obviousness type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 7,483,985, claims 1-31 of U.S. Patent No. 7,424,534, and claims 1-33 of U.S. Patent Application No. 10/675,410. Applicants respectfully traverse the rejection for at least the following reasons.

According to M.P.E.P. §804(II)(B)(1), "...the analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. *In re* Braat, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re* Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985)." The M.P.E.P. goes on to state:

Any obviousness-type double patenting rejection should make clear:

(A) The differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in a claim in the patent.

(emphasis added)

In addition, M.P.E.P. §804(II)(B)(1)(a) states, in part, "...[u]nless a claimed invention in the application would have been anticipated by, or obvious over a claimed invention in the patent, no double patenting rejection of the obvious-type should be made...."

Applicant respectfully submits that the Final Office Action has not established a *prima facie* case of either anticipation or obviousness with respect to claims 1-48 over the cited claims of any of U.S. Patent No. 7,424,534, U.S. Patent No. 7,483,985, or Application Serial No. 10/675,410. Initially, the support provided by the Office for this rejection is simply a two-column listing of the language of only claims 1-5 of the Application, aligned with claim 1 of Application Serial No. 10/675,410 and claims 1-5 of U.S. Patent No. 7,424,534. **The Office fails to even address rejected claims 6-48 of the Application, and fails to address any of the claims of U.S. Patent No. 7,483,985.**

Further, although the Final Office Action has arranged selected claims in a side-by-side format, the Office fails to provide the required "...reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention...." Applicant respectfully submits that the Final Office Action does not provide any explanation of why the elements of Applicant's claims are either anticipated or obvious in view of the cited claims of U.S. Patent No. 7,424,534, U.S. Patent No. 7,483,985, or Application Serial No. 10/675,410. Instead, the Final Office Action (pp. 7-8) offers only the conclusory statement:

Although the conflicting claims are not identical, they are not patentably distinct from each other because the content of these claims is not exactly the same. All of these applications claims a system supporting concurrent consumption of media from multiple sources; a first and second television with storage for storing and distributing multimedia; software that maintain a user defined of the first

and second network protocol addresses etc.. The limited differences includes supporting the exchange of media, providing search functionalities to support the exchange, and 3rd party media, are obvious variations that would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the known technique of the Patents and copending application to the system.

Further, Applicant respectfully submits that the cited claims of the Application and the cited claims of U.S. Patent No. 7,424,534, U.S. Patent No. 7,483,985, and Application Serial No. 10/675,410 recite different features and patentably distinct subject matter, and that the Final Office Action has not shown that a non-statutory obviousness-type double patenting rejection is appropriate in that it has not shown where "...at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s)." Applicant respectfully submits that the Final Office Action merely offers the following conclusory statement, at page 8:

The limited differences includes supporting the exchange of media, providing search functionalities to support the exchange, and 3rd party media, are obvious variations that would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the known technique of the Patents and copending application to the system.

Applicant respectfully submits that M.P.E.P. §2142 recognizes that "[t]he Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness," and that **"rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."** (emphasis added) Further, M.P.E.P. §2143.03

clearly recognizes that “[t]o establish *prima facie* obviousness of a claimed invention, **all the claim limitations** must be taught or suggested by the prior art.” (emphasis added).

For example, Applicant respectfully submits that the Final Office Action fails to even show every feature of claim 1 of U.S. Patent Application No. 10/675,410, which recites the following feature not addressed in the Final Office Action:

first software that maintains a user defined group of users comprising the first and second users, wherein the user defined group of users is closed and secure with respect to others that are not members of the user defined group of users, wherein a member within the user defined group of users can privately share media content comprising audio and/or video with one or more other members within the user defined group of users, wherein the first software receives a request identifying one of the associated first and second network addresses, and responds by identifying the other of the associated first and second network addresses to support transmission of the media content comprising audio and/or video from the at least one first media peripheral to the second television display for consumption in a real time manner;

Applicant also respectfully submits that claim 1 of the Application recites features not recited by cited claim 1 of U.S. Patent Application No. 10/675,410, which recites, *inter alia*:

first software that maintains a user defined association of the first and second network protocol addresses, that receives a request that identifies one of the associated first and second network protocol addresses and responds by identifying the other of the associated first and second network protocol addresses to support delivery via the communication network of the 3<sup>rd</sup> party media from the at least one server, and the first media from the first storage, to the second home, and the 3<sup>rd</sup> party media from the at least one server, to the first home, for concurrent consumption of

the 3<sup>rd</sup> party media by the first television, and the 3<sup>rd</sup> party media and the first media by the second television;

Further, the Final Office Action has not even addressed the alleged obviousness of the claims of the Application and **any** claims of U.S. Patent No. 7,483,985.

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the Final Office Action has failed to establish a *prima facie* case of either anticipation or obviousness, as required by M.P.E.P. §804(II)(B)(1), that a non-statutory obviousness-type double patenting rejection is inappropriate, and respectfully request that the non-statutory obviousness-type double patenting rejection of claims 1-48 be withdrawn.

#### **REJECTION UNDER 35 U.S.C. § 103**

The determination of obviousness is a legal conclusion based on underlying findings of fact.<sup>1</sup> The factual inquiries, set forth in *Graham v. John Deere Co.*<sup>2</sup>, include: (1) the scope and content of the prior art, (2) the differences between the prior art and the claims, (3) the level of ordinary skill in the relevant art, and (4) any objective indicia of non-obviousness. Initially, the burden is on the Examiner to establish a *prima facie* case of obviousness<sup>3</sup>. "If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."<sup>4</sup> More specifically, MPEP at § 2142 states:

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<sup>1</sup> *Sanofi-Synthelabo v. Apotex, Inc.*, 550 F.3d 1075, 1085 (Fed. Cir. 2008).

<sup>2</sup> 383 U.S. 1, 86 S.Ct. 684 (1966)

<sup>3</sup> MPEP § 2142

<sup>4</sup> *Id.*

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

"The determination of obviousness is made with respect to the subject matter as a whole, not to separate pieces of the claim."<sup>5</sup> Accordingly, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art."<sup>6</sup> If, considering the claim as a whole, the Examiner deems the claim to be obvious in view of the prior art, the Examiner must provide a "clear articulation of the reason(s) why the claimed invention would have been obvious."<sup>7</sup> The Examiner's determination of obviousness "cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."<sup>8</sup>

In reviewing an Examiner's determination of obviousness, "the Board cannot simply reach conclusions based on its own understanding or experience—or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings."<sup>9</sup>

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<sup>5</sup> *Apotex*, 550 F.3d 1075 at 1086. (citing *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007); *Kimberly-Clark Corp. v. Johnson & Johnson*, 745 F.2d 1437, 1448 (Fed.Cir.1984)).

<sup>6</sup> MPEP § 2143.03 (quoting *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970)).

<sup>7</sup> MPEP § 2142.

<sup>8</sup> *KSR*, 550 U.S. 398 at 418 (quoting *In re Kahn*, 441 F.3d 977, 988, (Fed. Cir. 2006)).

<sup>9</sup> *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001). See also *In re Vaidyanathan*, Appeal 2009-1404 at 18-19 (Fed. Cir. May 19, 2010) (nonprecedential) ("If the examiner is able to render a claim obvious simply by saying it is so, neither the Board nor [the Federal Circuit] is capable of reviewing that determination. ... If there is neither record evidence nor detailed examiner reasoning, the Board should not conclude that [the Appellant's] claims are obvious.").

With these principles in mind, the Applicant now turns to the claim rejections, in particular.

## **II. The Proposed Combination of Lu, Hoshen, and Parker Does Not Render Claims 1-48 Unpatentable**

### **A. Independent Claims 1, 15, 25, 30 and 35**

With regard to the rejection of independent claims 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Lu, Hoshen and Parker does not disclose or suggest at least the limitation of "second software configured to enable a user at the first home to construct, at the first home, at least one user defined media channel, the second software also configured to enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

**Regarding claim 1**, Lu discloses a system supporting concurrent consumption of media from multiple sources (see col. 2, lines 9-28, col. 11, lines 41-53), the system comprising: a first television (see col. 6 lines 21-28 and fig. 2; display 212 of PVR 200A) in a first home (see col. 6, lines 43-61, co. 1 lines 64-67, fig. 3); a first storage in the first home that stores a first media (see col. 6, lines 50-53, col. 10, lines 40-43), and having an associated first network protocol address (see col. 10, lines 10-15, each PVR is associated with an IP address); a second television display 212 of PVR 200; col. 6, lines 21-28) in a second home (see the place where PVR 200 resides corresponds to "a second home"; fig. 3); a second storage in the second home (see col. 10, lines 26-29, 40-43, data device 218 of a PVR is used for storing TV programs for future viewing), the second storage having an associated second network protocol address (see col. 10, lines 10-15, each PVR is associated with an IP



address); at least one server for storing and distributing 3rd party media (see fig. 3, server 304 could be a 3rd party storage vendor); a communication network; and first software (EPG server 304) that maintains a user defined association of the first and second network protocol addresses, that receives a request (see search topic from PVR 200) that identifies one of the associated first and second network protocol addresses (see col. 10, lines 10-15, each PVR is associated with an IP address) and responds by identifying the other of the associated first and second network protocol addresses to support delivery via the communication network of the 3rd party media from the at least one server (see col. 6, lines 39-61, users associated with IP addresses of PVRs), and the first media from the first storage, to the second home, and the 3rd party media from the at least one server, to the first home, for concurrent consumption of the 3rd party media by the first television, and the 3rd party media and the first media by the second television (see display 212 of PVR 200; col. 6, lines 21-28).

Although Lu discloses substantial features of applicant's claimed invention, Lu fails to expressly disclose: wherein first software maintains a user defined association of the first and second network protocol addresses and wherein supporting delivery via the communication network of the 3rd party media from at least one server to first and second home.

In analogous teaching, Hoshen exemplifies this where Hoshen teaches wherein server software maintains a user defined association of the first and second network protocol addresses and wherein supporting delivery via the communication network of the 3rd party media from at least one server to first and second home (see abstract, par. [0003, 0078, 0085, 0055-0060] and figures 1-3 and the details associated).

Thus, given the teaching of Hoshen, it would have been obvious to one of the ordinary skill persons in the art of networking to modify the teaching of Lu and Hoshen for a 3rd party media communication with first and second home. Motivation for doing so would have been recording and storing selected programs in at least two SSTBs, and transmitting the stored program to the users, whenever a user request is obtained as taught by Hoshen (see par. 0022).

Although Lu-Hoshen disclose substantial features of applicant's claimed invention, Lu further fails to expressly disclose: second software configured to enable a user at the first home to construct, at the first

home, at least one user defined media channel, the second software also configured to enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home. Nevertheless, second software configured to enable a user at the first home to construct, at the first home, at least one user defined media channel, the second software also configured to enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home, where well known at the time of the present invention.

In analogous teaching, Parker exemplifies this where Parker teaches wherein second software configured to enable a user at the first home to construct (a network-enabled personal computer workstation 14; Fig. 1), at the first home, at least one user defined media channel (see VT and Record Database Server 35; Fig. 1), the second software also configured to enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home (see fig. 1 and details wherein a data network interconnects the service provider workstation and the requester communication device, and the service provider workstation and the requester communication device have respective network addresses. A requester information database stores a data record corresponding to the requester. The requester communication device includes a signaling device for generating a request signal and a controller responsive to the request signal for initiating a video communication link between the requester communication device and the service provider workstation using the respective network addresses and for initiating display of the data record at the service provider workstation).

Thus, given the teaching of Parker, it would have been obvious to one of the ordinary skill persons in the art of networking to modify the teaching of Lu-Hoshen into Parker for a software configured user enabled media communication channel within peer network for motivation of efficient deployment of media caregiver or other service provider resources while increasing the quality and information content of communication (see Parker par. 0008).

See Office Action at pages 10-13. The Applicants respectfully submit that the proposed combination of Lu, Hoshen, and Parker does not describe, teach, or suggest all aspects of Applicant's claim 1.

The Final Office Action admits that Lu and Hoshen in combination do not disclose at least the above aspect of Applicants' claim 1. See FOA, p. 12. The Final Office Action, however, then turns to Parker, and states the following:

10. In analogous teaching, Parker exemplifies this where Parker teaches wherein second software configured to enable a user at the first home to construct (a network-enabled personal computer workstation 14; Fig. 1), at the first home, at least one user defined media channel (see VT and Record Database Server 35; Fig. 1), the second software also configured to enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home (see fig. 1 and details wherein a data network interconnects the service provider workstation and the requester communication device, and the service provider workstation and the requester communication device have respective network addresses. A requester information database stores a data record corresponding to the requester. The requester communication device includes a signaling device for generating a request signal and a controller responsive to the request signal for initiating a video communication link between the requester communication device and the service provider workstation using the respective network addresses and for initiating display of the data record at the service provider workstation).

(emphasis added)(See FOA, p. 13.)

As an initial point, Applicant respectfully submits that the Examiner fails to specifically cite any text from Parker to shed light on why the Examiner selected the elements of Parker identified above, and merely copies the underlined portion of text that appears at the Abstract and paragraph [0009]. The Final Office Action fails to explain how this portion of Parker supports the rejection by teaching Applicants' claimed subject matter, as required by M.P.E.P. §2142. In particular, the Final Office Action does not explain specifically how and why the identified elements and the underlined text from Parker teach all of the features of Applicant's claim 1 admittedly missing from the proposed combination of Lu and Hoshen. This defect of the instant Final Office Action is common to the arguments presented over the features of at least claims 1, 15, 25, 30, and 35. Thus, Applicant respectfully maintains that the Final Office Action has not established a *prima facie* case of obviousness at least because the Final Office Action does not explicitly demonstrate how all aspects of Applicant's claim 1 are taught by the cited art.

Applicant respectfully maintains that the invention of Parker relates to "a video telephony system for conducting communications supplemented by presenting digital data records to a service provider automatically in response to a video telephony call." *Id.* at para. [0003].

Applicant respectfully maintains that Parker teaches a "computer workstation 14" is used by a "service provider," described by Parker as a "medical caregiver." *Id.* at Abstract. The "medical caregiver" receives video telephony calls initiated by a "service

requester" (a "medical patient") from the location of a "requester communication device." *Id.* at Abstract and ¶[0019]. Video calls to the "medical caregiver" are initiated from the "requester communication device" manually (e.g. by push button) or automatically (e.g., caused by telephone call to particular number or by "patient monitor 33"). *Id.* at paras. [0020], [0023], [0024]. A "data record" stored in a "requester information database 35" or provided by the "requester communication device" is made available to the "medical caregiver" at "computer workstation 14." *Id.* at Abstract, paras. [0018], [0022], [0024].

The Final Office Action seems to assert that the "network enabled personal computer workstation 14" of FIG. 1 of Parker teaches Applicant's "second software configured to enable a user at the first home to construct, [at the first home, at least one user defined media channel]." *See* FOA, p. 13. The Final Office Action also seems to assert that the "VT and Record Database Server 35" somehow teaches Applicant's "at least one user defined media channel." *Id.* In addition, the Final Office Action seemingly asserts that the "data network" of Parker teaches Applicant's claimed "second software" that enables "enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home." *Id.* Applicant again respectfully disagrees that Parker teaches what is asserted, and disagree that Parker remedies the admitted failings of Lu and Hoshen. Applicant respectfully submits that Parker is deficient for a number of reasons.

Applicant respectfully submits that the Final Office Action has not shown where and how Parker teaches, suggests, or discloses "closed and secure communication of the at least one user defined media channel to others (plural) **within a user defined group** that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home." As noted above, the Final Office Action seems to assert that the "network enabled personal computer workstation 14" of FIG. 1 of Parker teaches Applicant's "second software configured to enable a user at the first home to construct, [at the first home, at least one user defined media channel]." Also as noted above, the Final Office Action seems to assert that the "VT and Record Database Server 35" somehow teaches Applicant's "at least one user defined media channel." Applicant respectfully submits, however, that Final Office Action has failed to demonstrate that Parker teaches communication of any piece of information from the "VT and Record Data Server 35" to a plurality of recipients from the location of the "service provider/medical caregiver," in accordance with claim 1. Instead, Parker merely teaches that the "data record" corresponding to a "requester" is displayed at the "service provider workstation." See *id.* at Abstract; Ref. 67 of FIG. 5; paras. [0003], [0008], [0009], [0020], [0025], [0033]. Thus, for at least these reasons, Applicant respectfully submits that Parker fails to teach, suggest, or disclose at least this aspect of Applicant's claim 1 admittedly missing from the proposed combination of Lu and Hoshen.

In addition, Applicant respectfully maintains that Applicant's "at least one user defined media channel" is quite different from the "VT and Data Record Server 35," which the Final Office Action asserted teaches this aspect of claim 1. Applicant's disclosure teaches, *inter alia*, that a "media channel" comprises "personal digital media (e.g., captured digital pictures, digital video, digital audio, etc.)." See Application at para. [0062]. Applicant respectfully submits that while limitations from the Specification are not to be read into the claims, the claims are to be given their broadest reasonable interpretation, **consistent with the Specification**. See M.P.E.P. §904.01 and §2145(VI). Applicant respectfully submits that interpretation of Applicant's "at least one user defined media channel" as a "server" is not consistent with the teachings of Applicant's Specification. The Final Office Action has not explicitly demonstrated that Parker teaches, suggests, or discloses that the "server 35" comprises "digital media" of the types described by Applicant's Specification. Thus, for at least these reasons, Applicant respectfully maintains that Parker fails to teach, suggest, or disclose at least this aspect of Applicant's claim 1 admittedly missing from the proposed combination of Lu and Hoshen.

If the Examiner meant to assert that a requester "data record" stored on the "VT and Data Record Server 35" teaches Applicant's "at least one user-defined media channel," Applicant respectfully maintains that the Examiner has not explicitly demonstrated that Parker teaches, suggests, or discloses that the requester "data record" of Parker is "constructed" by the "service provider/medical caregiver." Parker

teaches that the "data record" corresponding to a "requester" is sent from the "requester communication device" or another location, and that the "service provider" may "update" a "data record" of a "requester." *See, e.g., id.* at Refs. 63 and 68 of FIG. 5; Ref. 86 of FIG. 6; paras. [0006], [0008], [0009], [0018], [0025], [0026]; [0027], [0030], [0034], and [0036]. Therefore, Applicant respectfully submits that Parker teaches, at most, that the "service provider/medical caregiver" may modify a "data record," but the Examiner does not show where Parker teaches "construction." In addition, as noted above, the Final Office Action fails to explicitly demonstrate that Parker teaches, suggests, or discloses that any "data record" is communicated to "others" (plural) of a "closed and secure group of users," as required by Applicant's claim 1. Instead, Parker simply teaches that the "data record" corresponding to a "requester" is, for example, "one or more computer files" pertaining to the "requester." *See* paras. [0008], [0018], [0027]. Further, Parker teaches that the "data record" corresponding to a "requester" is merely displayed at the service provider workstation. *See id.* at Abstract; Ref. 67 of FIG. 5; paras. [0003], [0008], [0009], [0020], [0025], [0033]. Thus, for at least these reasons, Applicant respectfully maintains that Parker fails to teach, suggest, or disclose at least this aspect of Applicant's claim 1 admittedly missing from the proposed combination of Lu and Hoshen.

Therefore, for at least the reasons set forth above, Applicant respectfully maintains that, contrary to the repeated assertions of the Final Office Action, Parker does not remedy the admitted deficiencies of Lu and Hoshen. The Final Office Action



again admits that Lu and Hoshen do not teach, suggest, or disclose, at least, "second software configured to enable a user at the first home to construct, at the first home, at least one user defined media channel, the second software also configured to enable closed and secure communication of the at least one user defined media channel to others within a user defined group that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home." *See* FOA, p. 12. Applicant has again demonstrated that Parker also does not teach, suggest, or disclose these features of Applicant's claim 1. Because the Final Office Action admits that Lu and Hoshen do not teach, suggest, or disclose at least these aspects of claim 1, and Applicant has demonstrated that Parker also does not teach, suggest, or disclose at least these aspects of claim 1, it necessarily follows that the proposed combination of Lu, Hoshen and Parker cannot teach, suggest, or disclose at least these aspects of claim 1. Applicant respectfully submits that the Final Office Action, therefore, has not established a *prima facie* case of obviousness, as required by M.P.E.P. §2142 for at least the reasons set forth above. Applicant respectfully submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness for at least an additional reason.

Applicant respectfully submits that claim 1 also recites, in part, "software that maintains a user defined association of the first and second network protocol addresses, that receives a request that identifies one of the associated first and second network protocol addresses and responds by identifying the other of the associated first

and second network protocol addresses to support delivery via the communication network of the 3<sup>rd</sup> party media from the at least one server, and the first media from the first storage, to the second home, and the 3<sup>rd</sup> party media from the at least one server, to the first home, for concurrent consumption of the 3<sup>rd</sup> party media by the first television, and the 3<sup>rd</sup> party media and the first media by the second television."

In the instant rejection, the Final Office Action again relies only upon Lu and only at col. 6, lines 21-28 and "display 212" of "PVR 200," asserting that these cited portions of Lu alone teach, at least, "the first media from the first storage, to the second home, and the 3rd party media from the at least one server, to the first home, for concurrent consumption of the 3rd party media by the first television, and the 3rd party media and the first media by the second television." The Final Office Action does not assert that Hoshen and/or Parker provide any support in regard to rejection of these aspects of claim 1. Applicant respectfully disagrees with what Lu is asserted to teach.

A review of Lu shows that "display device 212" appears in FIG. 2, FIG. 3, and FIG. 4, but none of those illustrations of the system of Lu teaches, suggests, or discloses, at least, "the first media from the first storage, to the second home, and the 3rd party media from the at least one server, to the first home, for concurrent consumption of the 3rd party media by the first television, and the 3rd party media and the first media by the second television," contrary to the conclusory statement by the Final Office Action. That is, there is nothing in FIGs. 2, 3, or 4 that teaches anything about consumption of "3<sup>rd</sup> party media" from a "server" by a television at a "first home,"

**concurrent** with consumption, by a second television at a "second home," of the "3<sup>rd</sup> party media" **and** "media from a storage at the first home." **It is simply not there.**

Further, the Final Office Action fails to provide the "explicit analysis" required by M.P.E.P §2142 to explain how Lu is to be interpreted to teach what is asserted. Applicant now turns to Lu at cited col. 6, lines 21-29, which states:

... information and instructions. An optional display device 212 is coupled to bus 210 of personalized video recorder 200 for displaying video and/or graphics. It should be appreciated that optional display device 212 may be a cathode ray tube (CRT), flat panel liquid crystal display (LCD), field emission display (FED), or any other display device suitable for displaying video and/or graphic images and alphanumeric characters recognizable to a user.

Applicant respectfully maintains that the portion of Lu shown above fails to make any mention of concurrent consumption of media at first and second homes, let alone that a television at the "first home" consumes media from a "3<sup>rd</sup> party," while a second television at the second home consumes the media from the "3<sup>rd</sup> party" **and** media from a storage at the "first home." Instead, the cited portion of Lu, specifically selected by the Office, simply explains that "display device 212" may be "cathode ray tube (CRT), flat panel liquid crystal display (LCD), field emission display (FED), or any other display device suitable for displaying video and/or graphic images and alphanumeric characters recognizable to a user." Thus, the Final Office Action has not demonstrated that Lu teaches, suggests, or discloses "the first media from the first storage, to the second home, and the 3<sup>rd</sup> party media from the at least one server, to the first home, for

concurrent consumption of the 3rd party media by the first television, and the 3rd party media and the first media by the second television." Because Lu does not teach, suggest, or disclose at least this aspect of Applicant's claim 1, and the Final Office Action has not even asserted that either Hoshen or Parker teach anything in this regard, Applicant respectfully submits that it necessarily follows that the Final Office Action has not shown that the proposed combination of Lu, Hoshen, and Parker teaches, suggests, or discloses at least this aspect of Applicant's claim 1. Applicant respectfully maintains that claim 1 is, therefore, not rendered unpatentable by the cited art, and is allowable over the cited art for at least these additional reasons set forth above. Applicant respectfully submits that claim 1 is allowable for at least an additional reason.

Applicant respectfully submits that the rejection of claim 1 again consists simply of the text of Applicant's claim 1, interspersed with citations to portions of Lu, Hoshen, and Parker. For example with respect to the rejection of admitted deficiencies in Lu and Hoshen, the Final Office Action simply reproduces Applicant's claim text, inserts vague references to two elements of FIG. 1 of Parker, adds, verbatim, text that appears in both the Abstract and paragraph [0009] of Parker (without identifying its source), and then concludes with the conclusory statement:

Thus, given the teaching of Parker, it would have been obvious to one of the ordinary skill persons in the art of networking to modify the teaching of Lu-Hoshen into Parker for a software configured user enabled media communication channel within peer network for motivation of efficient deployment of media caregiver or other service provider resources while increasing the quality and

information content of communication (see Parker par. 0008).

Applicant respectfully maintains that the Final Office Action fails to provide the "explicit analysis" and "articulated reasoning," required by M.P.E.P. §2142, to explain how and why Parker teaches what is alleged. Applicant respectfully submits that, without explanation by the Examiner of specifically what in Parker teaches each element of Applicant's claim 1, the assertion by the Final Office Action is nothing more than a conclusory statement that "Parker teaches," and Applicant's efforts to reply to the arguments of the Examiner are made unnecessarily difficult.

Applicant respectfully maintains that the M.P.E.P. §2142 is clear that conclusory statements are not sufficient to support a rejection under 35 U.S.C. §103, that the Final Office Action **must** provide an "explicit analysis" of why the claimed invention is obvious in view of the cited art. See M.P.E.P. §2142. Applicant respectfully submits that claim 1 is allowable for at least the reason that the Final Office Action has not met the requirements of M.P.E.P. §2142 in this regard.

Therefore, should the Examiner choose to maintain the rejection, Applicant once again respectfully requests that the Examiner specifically identifies the relevant portions of the cited art, down to paragraph/column and line(s) and elements of figures that allegedly teach each and every element of Applicant's claims.

For example, with regard to the aspects of claim 1 admittedly missing from Lu and Hoshen, Applicant respectfully requests that the Examiner explain which of the specific teachings of Parker allegedly correspond to Applicants' claimed "user at the first home" and "at least one user defined media channel" and why? What from Parker teaches Applicant's "construct[ion], at the first home" of the "at least one user defined media channel," and why? What from Parker teaches the "others" to whom communication of the "at least one user defined media channel" is made, and why? What in Parker teaches Applicant's "user defined group," and why? What from Parker teaches the communication of the "at least one user define media channel" to the "others" of a "user defined group," and why? Applicant respectfully maintains that the instant Final Office Action, which merely repeats the rejections of the August 31, 2010 Office action, does not answer those questions and merely repeats the rejection of claim 1 taken from the August 31, 2010 Office action. Therefore, Applicant respectfully submits that the Office has not provided the "explicit analysis" and "articulated reasoning" required by M.P.E.P. §2142, and that claim 1 is allowable for at least this reason.

Accordingly, the proposed combination of Lu, Hoshen, and Parker does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 15, 25, 30, and 35 are similar in many respects to the system disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 15, 25,

30, and 35 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

Therefore, Applicant respectfully submits that the Final Office Action has not established a *prima facie* case of obviousness with respect to any of independent claims 1, 15, 25, 30, and 35, as required by M.P.E.P. §2142, that claims 1, 15, 25, 30, and 35 are not rendered unpatentable by the cited art, and that claims 1, 15, 25, 30, and 35, and any claims that depend therefrom are allowable over the proposed combination of Lu, Hoshen, and Parker. Accordingly, Applicant respectfully requests that the rejection of claims 1-48 under 35 U.S.C. 103(a) be reconsidered and withdrawn.

**B. Rejection of Dependent Claims 2-14, 16-24, 26-29, 31-34, and 36-48**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 15, 25, 30 and 35 under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Hoshen, further in view of Parker and further in view of Cohen has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-14, 16-24, 26-29, 31-34, and 36-48 depend from independent claims 1, 15, 25, 30 and 35, respectively, and are, consequently, also respectfully submitted to be allowable based on the above arguments.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-48.

In general, the Final Office Action makes various statements regarding claims 1-48 and the cited references, which statements are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).



**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-48 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 15-SEPT-2011

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